

REMARKS

Upon entry of this amendment, claims 15-16, 21-32, and 50-51 are pending. Claim 15 has been amended. No claims have been added. Claims 1-14, 17-20, 33-49, and 52-53 have been canceled.

Support for the amendment to claim 15 appears at least at Specification p. 15, ln. 17 - p. 16, ln. 10 (corresponding to ¶0108 of US Pat Pub No 2006/0134617).

No new matter has been added by way of this response.

Priority

Per the Office's request, the specification has been amended so as to incorporate a reference to PCT/IB2003/006422 and priority claim to US Prov App Ser No 60/434,699. Priority reference to these two applications was previously properly provided in at least the Application Data Sheet filed May 12, 2005. As such, Applicants believe that neither a petition under 37 CFR 1.78(a) nor a surcharge under 37 CFR 1.17(t) are required. Applicants respectfully request the Office to correct this understanding if necessary.

Claim Rejections under 35 U.S.C. § 112, ¶1 : Enablement (Deposit)

Applicants respectfully traverse and, for the following reasons, request reconsideration and withdrawal of the rejection of claims 15, 16, 21-32, 50 and 51 under 35 U.S.C. §112, ¶1 as failing to comply with the enablement requirement.

The Office asserts that the present application recites novel biological materials, specifically the TW-1 mutant strain of *Trichoderma longibrachiatum*, that is essential to the claimed invention. The Office acknowledges deposit of such material under deposit number VKMF-3634D. The Office requests Applicants provide statements of release and maintenance. Such statements are provided below.

The biological materials under the deposit number VKMF-3634D relevant to the present application will be released to the public irrevocably and without restriction or condition upon the issuance of a patent. Further, the biological material of deposit number VKMF-3634D relevant to the present application will be maintained for a period of thirty years or five years after the most recent request date, whichever is longer.

Claim Rejections under 35 U.S.C. § 112, ¶1 : Enablement (Scope)

Applicants respectfully traverse and, for the following reasons, request reconsideration and withdrawal of the rejection of claims 15, 16, 21-32, 50 and 51 under 35 U.S.C. §112, ¶1 as failing to comply with the enablement requirement.

The Office acknowledges that the specification is enabling for those plant species disclosed on p. 15, ln. 17 to p. 16, ln. 10. But the Office asserts that the specification is not enabling for all plant species.

While respectfully disagreeing with the Office as to the scope of enablement, in the interest of furthering prosecution, Applicants have amended claim 15 to recite those plant species recited at p. 15, ln. 17 to p. 16, ln. 10, such subject matter acknowledged as enabled by the Office.

CONCLUSION

Applicants respectfully request withdrawal of the rejections and believe that the claims as presented represent allowable subject matter. If the Office desires, Applicants welcome a telephone interview to expedite prosecution. Applicants petition the Office for a one month extension of time and submit herewith the requisite extension fee paid by credit card via EFS-Web. The Commissioner is hereby authorized to deduct any deficiency or credit any overpayment with respect to this response to Deposit Account No. 19-3140.

Respectfully submitted,

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